



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 13, 2012
1203-VU-02
Exhibit 1

Petition Number: 1203-VU-02

Subject Site Address: 800 E. Main Street

Petitioner: LA Landscapes, Inc., Lee Ackerman, Owner

Request: The petitioner is requesting a Variance of Use from the Westfield-Washington Zoning Ordinance (WC 16.04.050, D2) to allow a landscaping business in the Local Business (LB) District.

Current Zoning: Local Business

Current Land Use: Commercial

Approximate Acreage: 3.5 acres

Zoning History: 88-V-11, 5/18/88
0506-SE-01, 6/20/05
1007-VU-03, 8/13/10
1011-VU-06, 11/9/10

Exhibits: 1. Staff Report
2. Aerial Location Map
3. Petitioner's Application

Staff Reviewer: Ryan Clark, Associate Planner

Petition History

This petition will receive a public hearing at the March 13, 2012 Board of Zoning Appeals meeting.

Property History

The Property was previously approved for four separate variances or special exceptions. Case 88-V-11 was a variance of use to allow the manufacturing of cloth products, but was tied to the owner and is no longer valid. Case 0506-SE-01 was a Special Exception to permit a temporary fruit stand. Case 1007-VU-03 was a Variance of Use to allow an indoor shooting range which was denied. Lastly, case 1011-VU-06 was a Variance of Use to allow an auto repair business in the LB district.



Analysis

The subject property is approximately three and a half (3.5) acres in size and is located at 800 E. Main Street (the "Property"). The Property is zoned Local Business and is currently used commercially. The petitioner would like to operate a landscaping business on the rear of the Property (the "Proposed Use"). "Landscaping Business" is not a permitted use in the Local Business District.

The Property currently contains a restaurant, an antique shop, an auction house, and also a storage building which are all accessed via a shared access point on State Road 32. Abutting property to the east, west, and south is zoned Local Business and adjacent property to the north is zoned SF-4.

The proposal is to permit a landscaping business in an existing storage building ("the Building") at the northeast corner of the Property. The Building would include offices and provide inside storage for all equipment and materials for the landscaping business. No new buildings or additions are being proposed on the Property and the use would occur entirely in the Building. Additional screening is proposed to the north of the property along the residential area. The petitioner has also committed that there will be no outdoor storage or outdoor maintenance of equipment. All equipment and necessary maintenance will be performed indoors.

Procedural

A Board of Zoning Appeals shall approve or deny variances of use from the terms of the zoning ordinance. The Board may impose reasonable conditions as a part of its approval. A variance may be approved under Ind. Code § 36-7-4-918.4 only upon a determination in writing that:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that allowing a landscaping business on the Property would be injurious to the public health, safety, morals, and general welfare of the community. Parts of the Property are currently being used in a similar commercial manner (auction barn used for storage).

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*



Finding: It is unlikely that the use and value of adjacent property will be affected in a substantially adverse manner. The Property is commercial in nature and the proposed use should not impact the surrounding Local Business district properties or residential areas. Feedback from adjacent property owners should provide insight regarding the impact on adjacent properties. The petitioner has also proposed additional screening along the residential area to the north.

3. *The need for the variance of use arises from some condition particular to the property involved:*

Finding: The proposed Use is not contemplated by Westfield-Washington Zoning ordinance and a variance is needed to allow the use anywhere in the township.

4. *The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance of use is sought:*

Finding: Strictly applying the zoning ordinance would not permit the requested use. The Property is currently zoned for a local business use and is being used by a restaurant, an auction barn, and an antique shop. The BZA should determine whether or not the inability to use the property for the Proposed Use is an unnecessary hardship in the use of the Property.

5. *The approval does not interfere substantially with the comprehensive plan:*

Finding: The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") recommends that this area is local commercial which is intended to provide goods and services for nearby residents on a day-to-day basis for uses such as banks, convenience stores, and automobile service stations. While the Proposed Use is not a service use to be used by nearby residents on a day-to-day basis, it also does not substantially interfere with the Comprehensive Plan, due to its unique location in the rear of the lot.

Recommendations

1. If the BZA determines that there is 1) some condition particular to the area to be leased warranting a variance and 2) an unnecessary hardship created by the zoning ordinance, then approve this request with the following conditions:
 1. That there be no storage or delivery of bulk landscaping materials on-site; indoors or outdoors.
 2. That there be no outdoor storage of equipment. All equipment shall be located indoors.
 3. That there be no repair or maintenance of equipment outdoors. All maintenance shall be done indoors.
 4. That there be no Semi-trucks on-site.
 5. That there be no bulk fuel / petroleum storage on-site; indoors or outdoors.



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6. That a wooden stockade fence, a minimum of six (6') feet in height, be installed along the northern boundary of the Property no later than May 1, 2012 at a distance indicated on the site plan.
 7. That no speakers be installed on the exterior of the building.
2. If the BZA determines that there is not 1) some condition particular to the Property warranting a variance or 2) an unnecessary hardship created by the zoning ordinance, then deny this request.